

Message Text

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TO AMEMBASSY LONDON PRIORITY

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E.O. 11652:N/A

TAGS: EWWT, UK

SUBJECT:USE OF UK-BUILT HOVERCRAFT IN US COASTWISE TRADE

REF: LONDON 4823 AND PREVIOUS

1. IN 1963, THE US CUSTOMS SERVICE (AGENCY WITHIN TREASURY RESPONSIBLE FOR ADMINISTERING THE JONES ACT), AFTER INTERAGENCY CONSULTATION, DETERMINED THAT HOVERCRAFT WHEN USED AS A MEANS OF TRANSPORTATION ON WATER AND DEPENDENT ON WATER AS THE SUPPORTING SURFACE OF THE MACHINE OR ITS AIR CUSHION, ARE QUOTE VESSELS UNQUOTE, AND THEREFORE SUBJECT TO THE NAVIGATION LAWS ADMINISTERED BY CUSTOMS. CUSTOMS AND TREASURY DEPARTMENT HAVE RECONSIDERED THE MATTER ON SEVERAL OCCASIONS, THE LATEST BEING LIMITED OFFICIAL USE

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MARCH 9, 1977, AND HAVE CONTINUED TO REAFFIRM THAT HOVERCRAFT ARE VESSELS.

2. THUS, HOVERCRAFT ARE VESSELS AND CUSTOMS HAS CONSISTENTLY EXCLUDED SUCH FOREIGN-BUILT CRAFT FROM THE COASTWISE TRADE OF THE US THROUGH SEVERAL STATUTES, 46 USC SECTIONS 11, 251, AND 883 (ALSO 46 USC 289 IF

VESSEL IS UNDER FOREIGN-FLAG).

3. A WAIVER OF THE APPLICABLE COASTWISE LAWS HAS BEEN GRANTED BY CUSTOMS SEVERAL TIMES IN THE CASES OF FOREIGN BUILT HOVERCRAFT, BUT ONLY UPON THE SPECIFIC REQUEST OF THE DEPARTMENT OF DEFENSE. THIS ACTION WAS TAKEN UNDER THE AUTHORITY OF THE ACT OF DECEMBER 27, 1950 (64 STAT 1120), WHICH IS THE ONLY EXISTING AUTHORITY UNDER WHICH CUSTOMS AND TREASURY CAN REFRAIN FROM APPLYING A LAW BELIEVED TO BE OTHERWISE APPLICABLE. IN 3 OF THE 4 INSTANCES OF WAIVERS, THE HOVERCRAFT HAVE BEEN BUILT IN THE UK. SUCH EXEMPTIONS WERE GRANTED TO DOD WHEN THE CRAFT WERE OPERATED FOR EITHER EXPERIMENTAL PURPOSES (1964), OR WERE USED TO TRANSPORT MEN AND MATERIALS FROM SHORE TO OFFSHORE OIL RIGS IN ALASKA (1966 AND 1974). IN EACH CASE THE EXAMPTION WAS GRANTED FOR REASONS OF NATIONAL DEFENSE. IN THE 1964 CASE, THE CITY OF OAKLAND, CAL., PURSUANT TO A MASS TRANSPORTATION DEMONSTRATION GRANT, WAS ALLOWED TO EMPLOY SEVERAL UK HOVERCRAFT ON THE PREMISE THAT DOD WOULD BE GIVEN ALL THE DATA GATHERED ON THE OPERATION OF THE CRAFT. IN THE TWO INSTANCES IN 1966 AND AGAIN IN 1974, THE ARMY AND THE NAVY WANTED THE DATA GATHERED FROM OPERATION OF THE CRAFT TO EVALUATE SUCH CRAFT FOR POSSIBLE FUTURE MILITARY USE.

4. CUSTOMS INTENDS TO CHECK IMMEDIATELY WITH NEW YORK OFFICE REGARDING THE REPORTED ORDER OF THE CRAFT BY NYC FOR QUOTE EXPERIMENTAL PUBLIC TRANSPORT SERVICE UNQUOTE. ACCORDING TO CUSTOMS, EVEN EXPERIMENTAL USE CAN LIMITED OFFICIAL USE

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BE VIOLATIVE OF THE JONES ACT IF TRANSPORTATION OF PASSENGERS AND/OR MATERIALS IS PART OF THE EXPERIMENT AND A SPECIFIC WAIVER HAS NOT BEEN GRANTED BY CUSTOMS OR TREASURY.

5. IN SUMMARY, FOREIGN-BUILT HOVERCRAFT ARE VESSELS AND AS SUCH HAVE BEEN HISTORICALLY EXCLUDED FROM THE COASTWISE TRADE UNLESS A WAIVER BASED ON NATIONAL DEFENSE IS GRANTED.

6. DEPARTMENT WILL ADVISE EMBASSY OF RESULTS PARA. 4.

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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Disposition Remarks:
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Enclosure: n/a
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